

## **REMARKS / ARGUMENTS**

### **I. General Remarks**

Applicant respectfully requests that the above amendments be entered and further request reconsideration of the application in view of the following remarks. Applicant thanks the Examiner for his careful consideration of the claims

### **II. Disposition of the Claims**

Claims 1-17 are pending. Claims 18-26 and 29-59 were withdrawn from consideration in response to a previous restriction requirement. Claims 27 and 28 were also withdrawn in that response.

Claim 10 has been amended herein. These amendments are supported by the specification as filed.

Claims 1-17 stand rejected under 35 U.S.C. § 102(e).

### **III. Remarks Regarding Rejections Under 35 U.S.C. § 102(e)**

Claims 1-17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,913,643 to Dejaiffe ("*Dejaiffe*"). With respect to these rejections, the Final Office Action states:

Claim 1: Dejaiffe teaches a lightweight aggregate comprising silica and alumina (abstract). The alumina is present in a amount of 8-14 wt% (col. 4, lines 5-8). The aggregate comprises typical large and small sizes (col. 5, lines 1-13), and thus falls within the broad claimed size range of 8 mesh or smaller. The aggregate contains voids (col. 5, lines 8-10 and 21-23). The gravity of the aggregate is not reported but it is considered met by inherency because the Dejaiffe aggregate comprises the same composition as the claimed particulate. See rejections in claims 2-5 below.

Claims 2-3: See col. 4, lines 5-10.

Claim 4: See col. 6, lines 30-32.

Claim 5: See col. 5, lines 45-50 (bottom ash and fly ash).

Claim 6: See rejection to claim 1.

Claim 7: considered met by inherence because the Dejaiffe aggregate comprises the same composition as the claimed particulate. See rejections in claims 2-5 above.

Claim 8: See col. 5, lines 34-37.

Claim 9-10: col. 5, lines 8-10 and 21-23.

Claims 11-12: See col. 4, lines 5-10.

Claim 13: See col. 6, lines 30-32.

Claims 14-17: See rejections to claims 6-8 above.

(Final Office Action at ¶ 3.) Applicant respectfully disagrees with these rejections.

To form a basis for a § 102(e) rejection, a prior art reference must disclose each and every element as set forth in the claim. MANUAL OF PATENT EXAMINING PROCEDURE § 2131 (2005). However, *Dejaffe* does not disclose particulates that comprise a substantially spherical shape, as recited in claim 1. *Dejaffe* does disclose “lightweight aggregates” that may be large or small in size (*see Dejaffe* at col. 5, ll. 8-25), but does not disclose that those aggregates may comprise a substantially spherical shape. Thus, since *Dejaffe* does not disclose this element, it cannot anticipate claim 1.

Moreover, claim 10 has been amended in this response to require that the particulates recited therein comprise a substantially spherical shape. As discussed above with respect to claim 1, *Dejaffe* does not disclose this element, and thus *Dejaffe* cannot anticipate claim 10, as amended herein.

Therefore, Applicant respectfully submits that independent claims 1 and 10, as amended herein, are patentable over *Dejaffe*. Moreover, since “a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers,” and since claims 2-9 and 11-17 depend, either directly or indirectly, from claim 1 or 10, these dependent claims are allowable for at least the same reasons. *See* 35 U.S.C. § 112 ¶ 4 (2004). Accordingly, Applicant respectfully requests the withdrawal of these rejections.

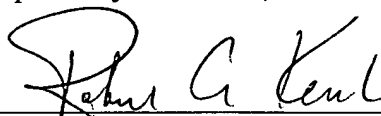
#### **SUMMARY**

In light of the above remarks and amendments, Applicant respectfully requests reconsideration and withdrawal of the outstanding objections and rejections. Applicant further submits that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Because this response has been filed within two months of when the Final Office Action was issued, Applicant respectfully requests that the Examiner issue an advisory action if

the Examiner does not find the claims to be allowable in light of the amendments and remarks made herein. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

Applicant believes that no additional fees are due in association with the filing of this response. However, should the Commissioner deem that any additional fees are due, including any fees for extensions of time, Applicant respectfully requests that the Commissioner accept this as a Petition Therefor, and direct that any additional fees be charged to the Deposit Account of Halliburton Energy Services, Inc., No. 08-0300 for any underpayment of fees that may be due in association with this filing.

Respectfully submitted,



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Date: July 11, 2006